

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)**

UNITED STATES OF AMERICA,	:	Case No. 3:25-cr-00031
	:	
Plaintiff,	:	District Judge Michael J. Newman
	:	Magistrate Judge Caroline H. Gentry
vs.	:	
	:	
NOEL PEREZ AVITIA,	:	
	:	
Defendant.	:	

REPORT AND RECOMMENDATION¹

This case came before the Court for plea proceedings on July 2, 2025 following referral to the undersigned pursuant to Fed. R. Crim. P. 59. Assistant United States Attorney Amy Smith appeared on behalf of the Government. Thomas Eagle, Esq. appeared and represented Defendant. Defendant appeared with the assistance of a Spanish-language interpreter. Defendant verbally consented to proceeding before the United States Magistrate Judge for the plea hearing.

The undersigned examined Defendant under oath as to his understanding of the plea agreement, which Defendant acknowledged in open court. The undersigned also examined Defendant under oath concerning the effect of entering a plea pursuant to that agreement. Having conducted that colloquy, the Magistrate Judge concludes that

¹ Attached is a NOTICE to the parties regarding objections to this Report and Recommendations.

Defendant fully understands the rights waived by entering a guilty plea and is fully competent to enter a guilty plea.

Based on the foregoing, the Magistrate Judge concludes that Defendant's guilty plea to Count One of the Information (Doc. No. 25) is a knowing, intelligent, and voluntary plea. The Court also concludes that the statement of facts made a part of the plea agreement, the truth of which Defendant acknowledged in open court, provides a sufficient factual basis for a finding of guilt.

It is therefore **RECOMMENDED** that: (1) the Court accept Defendant's guilty plea to Count One of the Information; and (2) Defendant be found guilty as charged in Count One of the Information. Anticipating the District Judge's adoption of this Report and Recommendation, the Magistrate Judge referred Defendant for a pre-sentence investigation and remanded him to the custody of the U.S. Marshal.

IT IS SO RECOMMENDED.

July 7, 2025

s/Caroline H. Gentry

Caroline H. Gentry

United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Crim. P. 59(b)(2), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendations. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).